

ASSEMBLY BILL

No. 668

Introduced by Assembly Member Cox

February 19, 2003

An act to amend Section 65584 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as introduced, Cox. General plans: housing elements.

(1) Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. The assessment includes the locality's share of regional housing needs. That share is determined by the appropriate council of governments or by the Department of Housing and Community Development, subject to revision by the department.

This bill would require the council of governments or the department, as the case may be, to revise its determination within one year after the incorporation of a new city, or the annexation of land by an existing city subject to specified conditions that provide, among other things, that the previous allocation of the regional housing needs to other cities within the affected county do not change. By imposing additional duties upon local officials this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65584 of the Government Code is
2 amended to read:
3 65584. (a) For purposes of subdivision (a) of Section 65583,
4 the share of a city or county of the regional housing needs includes
5 that share of the housing need of persons at all income levels within
6 the area significantly affected by a general plan of the city or
7 county. The distribution of regional housing needs shall, based
8 upon available data, take into consideration market demand for
9 housing, employment opportunities, the availability of suitable
10 sites and public facilities, commuting patterns, type and tenure of
11 housing need, the loss of units contained in assisted housing
12 developments, as defined in paragraph (8) of subdivision (a) of
13 Section 65583, that changed to non-low-income use through
14 mortgage prepayment, subsidy contract expirations, or
15 termination of use restrictions, and the housing needs of
16 farmworkers. The distribution shall seek to reduce the
17 concentration of lower income households in cities or counties that
18 already have disproportionately high proportions of lower income
19 households. Based upon population projections produced by the
20 Department of Finance and regional population forecasts used in
21 preparing regional transportation plans, and in consultation with
22 each council of governments, the Department of Housing and
23 Community Development shall determine the regional share of the
24 statewide housing need at least two years prior to the second
25 revision, and all subsequent revisions as required pursuant to
26 Section 65588. Based upon data provided by the department



1 relative to the statewide need for housing, each council of
2 governments shall determine the existing and projected housing
3 need for its region. Within 30 days following notification of this
4 determination, the department shall ensure that this determination
5 is consistent with the statewide housing need. The department may
6 revise the determination of the council of governments if
7 necessary to obtain this consistency. The appropriate council of
8 governments shall determine the share for each city or county
9 consistent with the criteria of this subdivision and with the advice
10 of the department subject to the procedure established pursuant to
11 subdivision (c) at least one year prior to the second revision, and
12 at five-year intervals following the second revision pursuant to
13 Section 65588. The council of governments shall submit to the
14 department information regarding the assumptions and
15 methodology to be used in allocating the regional housing need.
16 As part of the allocation of the regional housing need, the council
17 of governments, or the department pursuant to subdivision (b),
18 shall provide each city and county with data describing the
19 assumptions and methodology used in calculating its share of the
20 regional housing need. The department shall submit to each
21 council of governments information regarding the assumptions
22 and methodology to be used in allocating the regional share of the
23 statewide housing need. As part of its determination of the regional
24 share of the statewide housing need, the department shall provide
25 each council of governments with data describing the assumptions
26 and methodology used in calculating its share of the statewide
27 housing need. The councils of governments shall provide each city
28 and county with the department's information. The council of
29 governments shall provide a subregion with its share of the
30 regional housing need, and delegate responsibility for providing
31 allocations to cities and a county or counties in the subregion to a
32 subregional entity if this responsibility is requested by a county
33 and all cities in the county, a joint powers authority established
34 pursuant to Chapter 5 (commencing with Section 6500) of
35 Division 7 of Title 1, or the governing body of a subregional
36 agency established by the council of governments, in accordance
37 with an agreement entered into between the council of
38 governments and the subregional entity that sets forth the process,
39 timing, and other terms and conditions of that delegation of
40 responsibility.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographical restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or

1 county shall use that share. If the council of governments or the
2 department grants a revised allocation pursuant to paragraph (1),
3 the council of governments or the department shall ensure that the
4 current total housing need is maintained. If the council of
5 governments or the department indicates that the proposed
6 revision is inconsistent with the regional housing need, the city or
7 county shall use the share that was originally determined by the
8 council of governments or the department.

9 (4) The determination of the council of governments or the
10 department, as the case may be, shall be subject to judicial review
11 pursuant to Section 1094.5 of the Code of Civil Procedure.

12 (5) The council of governments or the department shall reduce
13 the share of regional housing needs of a county if all of the
14 following conditions are met:

15 (A) One or more cities within the county agree to increase its
16 share or their shares in an amount that will make up for the
17 reduction.

18 (B) The transfer of shares shall only occur between a county
19 and cities within that county.

20 (C) The county's share of low-income and very low income
21 housing shall be reduced only in proportion to the amount by
22 which the county's share of moderate- and above
23 moderate-income housing is reduced.

24 (D) The council of governments or the department, whichever
25 assigned the county's share, shall have authority over the approval
26 of the proposed reduction, taking into consideration the criteria of
27 subdivision (a).

28 (6) The housing element shall contain an analysis of the factors
29 and circumstances, with all supporting data, justifying the
30 revision. All materials and data used to justify any revision shall
31 be made available upon request by any interested party within
32 seven days upon payment of reasonable costs of reproduction
33 unless the costs are waived due to economic hardship.

34 (d) (1) *After making its final determination under subdivision*
35 *(c), the council of governments or the department, as the case may*
36 *be, shall revise its determination within one year after the*
37 *incorporation of a new city or the annexation of land by an existing*
38 *city within the region covered by the determination. In the case of*
39 *an annexation, the determination shall only be revised if the*
40 *annexed area was not considered by the council of governments or*

1 *the department, as the case may be, in the original determination*
2 *for the annexing city. The revised determination shall be based*
3 *upon the methodology described in subdivision (a) and shall*
4 *reallocate a portion of the affected county's share of regional*
5 *housing needs to the new or annexing city. The revised*
6 *determination shall not change the previous allocation of the*
7 *regional housing needs assigned by the council of governments or*
8 *the department, as the case may be, to other cities within the*
9 *affected county.*

10 (2) Except as provided in paragraph ~~(2)~~ (3), any ordinance,
11 policy, or standard of a city or county that directly limits, by
12 number, the building permits that may be issued for residential
13 construction, or limits for a set period of time the number of
14 buildable lots that may be developed for residential purposes, shall
15 not be a justification for a determination or a reduction in the share
16 of a city or county of the regional housing need.

17 ~~(2)–~~

18 (3) Paragraph ~~(1)~~ (2) does not apply to any city or county that
19 imposes a moratorium on residential construction for a specified
20 period of time in order to preserve and protect the public health and
21 safety. If a moratorium is in effect, the city or county shall, prior
22 to a revision pursuant to subdivision (c), adopt findings that
23 specifically describe the threat to the public health and safety and
24 the reasons why construction of the number of units specified as
25 its share of the regional housing need would prevent the mitigation
26 of that threat.

27 (e) Any authority to review and revise the share of a city or
28 county of the regional housing need granted under this section
29 shall not constitute authority to revise, approve, or disapprove the
30 manner in which the share of the city or county of the regional
31 housing need is implemented through its housing program.

32 (f) A fee may be charged to interested parties for any additional
33 costs caused by the amendments made to subdivision (c) by
34 Chapter 1684 of the Statutes of 1984 reducing from 45 to 7 days
35 the time within which materials and data shall be made available
36 to interested parties.

37 (g) Determinations made by the department, a council of
38 governments, or a city or county pursuant to this section are
39 exempt from the California Environmental Quality Act, Division



1 13 (commencing with Section 21000) of the Public Resources
2 Code.

3 SEC. 2. No reimbursement shall be made from the State
4 Mandates Claims Fund pursuant to Part 7 (commencing with
5 Section 17500) of Division 4 of Title 2 of the Government Code
6 for costs mandated by the state pursuant to this act. It is recognized,
7 however, that a local agency or school district may pursue any
8 remedies to obtain reimbursement available to it under Part 7
9 (commencing with Section 17500) and any other provisions of
10 law.

